

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
February 6, 2020

Members Present

Lynn Perkins, Chairman
Heather Evans, Vice Chair
Randall Kelley, Secretary
Craig Corbett

Members Absent

Michelle Navarro

Alternates Present

Crystal Morin

Alternates Absent

Donald Burgess
Allan Virr

Code Enforcement

Robert Mackey, Code Enforcement Director

Mr. Perkins called the meeting to order at 7:03 p.m. with the salute to the flag and notice of fire and handicap exits and that this and all Zoning Board meetings are videotaped.

The Board members introduced themselves.

It was noted for the record that Mrs. Morin would sit on the following case.

20-103 Marjorie Dastous

The applicant is requesting a Special Exception as provided in Article VI, Section 165-48.A of the Town of Derry Zoning Ordinance to allow the operation of a pet grooming business at the residence at 5 Sheldon Road, PID 1073, Zoned LDR

Marjorie Dastous, applicant, read her application criteria and letter of explanation for the record. Mrs. Dastous said that she had operated a grooming business in Windham for over 10 years with no complaints. She provided the Board with a letter from a former client and read it for the record in favor of her proposed business. Mrs. Dastous said that the Derry Master Plan also speaks in favor and asset to have home based businesses. She said that the proposed business will not change the residential character of the neighborhood.

Board Questions

Mr. Perkins said that the use is described to be self-contained in the property and asked if the water supply and septic system would support the type of use. Mrs. Dastous said that her water system was adequate and she yield 25 gallons per minute. She said that her septic system is designed for 4 bedrooms and that there were only 2 people living in the home. Mrs. Dastous said that a typical bathing of a dog typically takes 6-8 gallons per dog and that she also has installed a special device for her tub that collects hair from going into the drain.

Mrs. Morin asked if the water usage was different for dogs. Mrs. Dastous said that she has a special tub that is designed for grooming.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a special exception for the operation of a pet grooming business at her residence.
- The home was constructed in 2018-19.
- The applicant is requesting a 3 square foot sign.
- The business will be conducted within a portion of the garage.
- There are pictures of the property in the file for review by the Board.

Favor

No one spoke in favor of the request.

Opposed

No one spoke in opposition of the request.

Mr. Corbett asked what hours of operation was being requested. Mrs. Dastous said that she would like Monday – Friday, 9:00am – 5:00 pm and she sometimes does an occasional weekend as some clients prefer a weekend. She said that she was a track coach and that she fits it in with her work schedule.

Mr. Perkins suggested if Monday – Saturday 7:00 am – 7:00 pm would be a more suitable fit. Mrs. Dastous said that would be fine but if possible, would prefer 8:00 pm as she may not have a dog done in time.

Mr. Perkins said that a condition of Monday – Saturday, 7:00 am – 8:00 pm.

Mrs. Evans motioned to go into deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Deliberative Session

Mrs. Evans said that she felt that the applicant had covered the criteria very well and had done her homework.

Mr. Kelley said he agreed and felt it was a great presentation.

Mrs. Morin said she also agreed that the applicant met the criteria.

Mr. Corbett said he felt that the applicant also met the criteria.

Mr. Perkins reviewed the conditions for the record.

Mrs. Evans motioned to come out of deliberative session.

Seconded by Mrs. Morin.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Mr. Kelley motioned on case #20-103 Marjorie Dastous to Grant a Special Exception as provided in Article VI, Section 165-48.A of the Town of Derry Zoning Ordinance to allow the operation of a pet grooming business at the residence at 5 Sheldon Road, PID 1073, Zoned LDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Hours of operation Monday – Saturday 7:00 AM – 8:00 PM**
- 3. Sign not to exceed 3 square feet and not to be internally illuminated.**

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

It was noted for the record that Mrs. Morin would sit on the following case.

**20-104 Hepworth Family Beaver Lake Trust
 c/o Carl O. & Gail A. Hepworth, Trustees**

The applicant is requesting a variance to the terms the terms of Article VI, Section 165-46.C.4 of the Town of Derry Zoning Ordinance to remove the existing cottage and replace with a new single family home with less than the required front and side setbacks at 32 Beaver Lake Ave, PID 51066, Zoned MDR

Earl Sanford, Sanford Surveying, said that he was here to represent Carl & Gail Hepworth who were also present this evening. Mr. Sanford presented the Board with photos and a plan of the proposed request for the record. He read the application criteria and reviewed the proposed use for the record. Mr. Sanford said that there are both new houses to the right and left of the property that have been redone and that the proposed home will be consistent with the real estate in the area.

Board Questions

Mr. Perkins asked where was the driveway for the property. Mr. Sanford said that the driveway was on the easement to the property that neighbors also utilize.

Mr. Hepworth said that the existing seasonal structure was built 80 years ago by his father in 1940. He said that there are only about a half dozen seasonal camps left on Beaver Lake. Mr. Hepworth said that he was seeking to retire and put up a similar home to what the neighbors have in the area. He said that he will be moving the footprint back from the lake side and unable to go further due to sewer easement but he owns from the lake to Lake Ave.

Mr. Perkins asked if the seasonal and reason for change. Mr. Hepworth said that it has been a camp for 80 years where in the winter the pipes are drained and that they only utilize the camp during the months of May to October. He said that he was seeking to build his retirement home and when sewer was brought into the area everyone started to replace their camps with year round homes and that he was now seeking to do the same.

Mr. Kelley asked what the setbacks were. Mr. Sanford explained the existing setbacks for the record.

Mr. Kelley asked what the 3rd floor proposal was. Mr. Hepworth said it would be for storage and possible the kids may use it as a bunk room.

Mr. Perkins asked if it would be a single family. Mr. Hepworth said yes. He said that they were going to build on the existing footprint but moving back allowed for a 12' deck and Environmental Services was happy to see the property moved back.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicants are proposing to remove the seasonal cottage currently located on the property and replace it with a new single family dwelling.
- The proposal is to locate the rebuilt structure 12 feet further back from the shore of Beaver Lake. Relief is being requested from the side and front (lot line facing the street although not directly abutting the street) setback requirements.
- The Town currently considers the land between Beaver Lake Ave and the lake as 3 separate lots. These are referred to as “tracts” in the proposal and on the variance plan submittal. They are all listed under the same ownership.
- As lake front property, this proposal requires a State Shoreland permit from the Department of Environmental Services (DES) which is currently in process.
- The property is serviced by municipal sewer and a private well.
- If approved, appropriate permits and inspections will be required.
- There are pictures of the property in the file for review by the Board.

Favor

No one spoke in favor of the request.

Opposed

No one spoke in opposition of the request.

Mr. Mackey said that there was a letter that was received by mail in support of the request that needed to be read for the record.

Mr. Kelley read a letter in support of the proposed request from Robert Taylor and Amy DeBrower, 30 Beaver Lake Ave for the record.

Mrs. Evans motioned to go into deliberative session.

Seconded by Mr. Corbett.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Deliberative Session

Mr. Perkins said that the applicant brought forward request to bring the existing house up to building standards and when done will be similar to existing structures in the area. He

said that they propose to move back form the lake and meet DES requirements is admirable. Mr. Perkins said that he felt that the applicant has met the 5 points of the criteria.

Mrs. Evans said she agrees and will increase surrounding property values.

Mr. Kelley said that the existing structure is currently lost where the properties on both sides have rebuilt to 2 story structures and feels that they have met the criteria.

Mr. Corbett said he agreed that the existing structure did not match the surrounding area and was sad to see removal but summer homes are a thing of the past.

Mrs. Morin said she agrees and that she was initially concerned with encroachment of walking to the lake but not doing that. She said that she felt that the applicant would be making an improvement to the area.

Mr. Perkins reviewed the conditions for the record.

Mrs. Evans motioned to come out of deliberative session.

Seconded by Mrs. Morin.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Mr. Kelley motioned on case #20-104 Hepworth Family Beaver Lake Trust c/o Carl O. & Gail A. Hepworth, Trustees to Grant a variance to the terms the terms of Article VI, Section 165-46.C.4 of the Town of Derry Zoning Ordinance to remove the existing cottage and replace with a new single family home with less than the required front and side setbacks at 32 Beaver Lake Ave, PID 51066, Zoned MDR

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to obtaining DES State Shoreland permit.**
- 3. Certificate of Elevation to be filed with Code Enforcement.**

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mr. Perkins

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

It was noted for the record that Mrs. Morin would sit on the following case.

20-105 Timothy Hebert

The applicant is requesting a variance to the terms of Article VI, Section 165-46.A of the Town of Derry Zoning Ordinance to allow the existing 3 living units located at the property to remain at 207 By-Pass 28, PID 14008-001, Zoned MDR

Timothy Hebert, owner, reviewed the criteria for the record. He explained that he found out about the problem when he went to the Code Enforcement office looking for a plot plan due to a tree concern. Mr. Hebert said that when he purchased, they had to have the lot lines adjusted so he could remove some trees safely.

Board Questions

Mr. Perkins asked if he currently resided on the property. Mr. Hebert said he originally rented the main portion of the property before he purchased in 2010 but has since gotten married and moved.

Mr. Perkins asked if when purchased was the intent to rent. Mr. Hebert said that when he initially purchased, he intended to live there and continue to rent other units to the tenants.

Mrs. Evans said prior owner had 3 units and saying that rented prior to purchase. Mr. Hebert said yes that he rented the primary section and that there was a studio in the lower level and an in-law on the top level.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicant is seeking a variance to allow a 3rd living unit that was created at the property over ten years ago to remain as is.
- Currently, the property is being assessed as a single family dwelling with an accessory (in-law) apartment.
- The records in the building file, which have to be pieced together a bit, would seem to indicate that the home was originally constructed in 1986 as a single family dwelling. At the end of 1999, it was determined by this office that an accessory unit had been created at some point and a building permit was subsequently issued in March of 2000 for this unit – presumably located in the lower level of the home.
- It then appears that a 3rd living unit was created at some point in a portion of the upper level of the home sometime prior to the current owner purchasing the property in 2010. Also in the file is a letter issued by this office in 2010 stating that if the kitchen facilities were removed from the lower level apartment (so as to no longer be considered a separate living unit) then the apartment created on the

- upper level could be considered an accessory apartment which was an allowed use. Apparently, this was never done or the facilities were subsequently reinstalled. The applicant says he purchased the property as a 3 unit and it has been utilized as such as long as he has owned it.
- The applicant is requesting a variance to allow a 3rd unit i.e. 3 family dwelling to remain as is so as not to have to evict his tenant(s) and remove the dwelling unit.
 - If allowed to remain the applicant will be required to ensure that the building meets building & life safety codes.
 - There are pictures of the property in the file for review by the Board.

Mr. Perkins asked which floor was rented. Mr. Hebert said he rented the primary unit on the right side of the building.

Mr. Perkins asked if he was under the presumption that it was a 3 family. Mr. Hebert said yes and it was presented as such by the realtor.

Mr. Perkins asked if approved what would need to be done to meet the 3 family requirements. Mr. Mackey said that proper egress, smoke and co detectors would need to be installed on each level.

Mr. Perkins asked if structural fire separation would be required. Mr. Mackey said that the home is a single family with accessible units. He said that the Code Enforcement office will need to review to set up what would need to bring into compliance.

Mr. Hebert described the means of egress from each unit for the record and that there is currently hardwired smoke and co detectors throughout the structure. He said that he has also installed blue took smoke with carbon monoxide detectors in the home.

Favor

No one spoke in favor of the request.

Opposed

No one spoke in opposition of the request.

Mr. Perkins said that he was at a quandary as to how this came about and not something that the Board has reviewed. He said that he did feel that it was an oversight to the applicant as was renting and no reason to distrust the listing agent. He said that he questions if it would be a 3 unit or accessory dwelling units.

Mrs. Moring asked how many bedrooms did the home have. Mr. Hebert said that the primary had 2 bedrooms and the accessory's each had one so a total of 4 bedrooms. He said that he did have a plan on file to upgrade the septic system when the time came.

Mr. Corbett asked if Mr. Mackey could explain the 2010 letter. Mr. Mackey reviewed the letter and history for the record.

Mr. Perkins asked when the property was purchased. Mr. Hebert said he purchased July 13, 2010.

Mr. Kelley motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Deliberative Session

Mr. Kelley said that he runs into this situation frequently and that he didn't second guess that the applicant purchased as a 3 family. He said that the former owner was notified not in compliance and feel that the use was part of the reason in consideration of sale. Mr. Kelley said that the applicant lived in the property prior to purchase and installed blue tooth smoke and co detectors and that he did not thing would have purchased if told the 3rd unit was not allowed. He said that the applicant has also had the property for over 10 years with no complaints filed.

Mr. Corbett said that the applicant moved in May and concern of where missed in representation. He said that the applicant has had some long time tenants and hard to tell have to move.

Mrs. Morin said that she agreed that she felt that the applicant was under the impression that was buying 3 units.

Mrs. Evans said she sympathized with the applicant that has had the property for 10 years and just finding out now that use was not allowed. She said that she felt would be a significant loss to the applicant if denied request.

Mr. Perkins said a septic upgrade if fail to take care of 3 units needs to accommodate use of the structure and all life safety aspects need to be met.

Mr. Mackey said yes and also be made as a condition so to be properly addressed.

Mr. Perkins reviewed the conditions for the record.

Mr. Corbett motioned to come out of deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Mr. Kelley motioned on case #20-105 Timothy Hebert to Grant a variance to the terms of Article VI, Section 165-46.A of the Town of Derry Zoning Ordinance to allow the existing 3 living units located at the property to remain at 207 By-Pass 28, PID 14008-001, Zoned MDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to meeting all Building & Life Safety Codes**

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

It was noted for the record that Mrs. Morin would sit for the following case.

**20-106 Promised Land Survey, LLC
Owner: Cheryl C. O'Connell Revocable Trust
Cheryl O'Connell, Trustee**

The applicant is requesting a variance to the terms of Article VI, Section 165-48.B.2 & 3 of the Town of Derry Zoning Ordinance to allow a 2 lot subdivision with one of the proposed lots to have less than 200 feet of frontage and lot width at 175 Warner Hill Road, PID 07013, Zoned LDR

Timothy Peloquin, Promised Land Survey, LLC, said he was here tonight with Sarah Barton who is the daughter of Mrs. O'Connell. He said that she was the person seeking to construct a home on the proposed 3 acre lot. Mr. Peloquin read the application criteria and described the location of the 30 acre lot and location of the proposed lot to be created for the record.

Board Questions

Mrs. Evans asked if there were plans to have additional homes on Island Pond Road. Mr. Peloquin said not at this time.

Mr. Perkins asked if the 30 acre parcel on Island Pond Road was not part of this proposal. Mr. Peloquin said that the proposed 3 acre parcel would be subdivided from the 30 acres leaving the remainder of 27 acres on Island Pond Road and the 3 acre lot on Warner Hill Road. He said that they have not done a complete boundary survey of the 30 acres.

Mr. Perkins said that he sees similar names in the area and asked if they were related. Mr. Peloquin said yes.

Mr. Perkins said that he felt that it was a reasonable plan to keep open space.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to subdivide a 30 (+/-) acre lot into 2 lots.
- The lot in question has frontage on both Warner Hill Road and Island Pond Road. The property is located in the Low Density Residential Zoning District (LDR) which requires a minimum of 3 acres and 200 feet frontage for each lot.
- The proposal is to create a 3 acre lot and utilize the existing 125 (+/-) frontage on Warner Hill Road and leave the remaining lot with 27 (+/-) acres and conforming frontage on Island Pond Road.
- The variance is necessary as the newly created 3 acre lot will have 125 feet of frontage where 200 feet is required.
- If approved, Planning Board subdivision approval will be required.
- If approved, appropriate permits and inspections will be required and the driveway must meet current driveway specifications for the Town. The new dwelling will need to have a residential sprinkler system.
- There are pictures of the property in the file for review by the Board.

Sarah Barton, daughter of Cheryl O'Connell, said that she would be the 5th generation to reside in the area of what will be her inheritance. She said that she was seeking to build in this location so as not to change the integrity of the farmland.

Favor

Ruth Provencal, 254 Island Pond Road, said that she has been a neighbor of Cheryl O'Connell since 2001. Mrs. Provencal said that the farm is beautiful and that Mrs. O'Connell was a wonderful neighbor and she was in support of the proposed request.

Opposed

No one spoke in opposition of the request.

Mrs. Evans motioned to go into deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Deliberative Session

Mr. Perkins said that he felt that the applicant had addressed the criteria and it was a reasonable request.

Mrs. Evans said she agrees that it was a reasonable request.

Mr. Perkins reviewed the conditions for the record.

Mr. Kelley motioned to come out of deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Mr. Kelley motioned on case #20-106 Promised Land Survey, LLC, Owner: Cheryl C. O'Connell Revocable Trust, Cheryl O'Connell, Trustee to Grant a variance to the terms of Article VI, Section 165-48.B.2 & 3 of the Town of Derry Zoning Ordinance to allow a 2 lot subdivision with one of the proposed lots to have less than 200 feet of frontage and lot width at 175 Warner Hill Road, PID 07013, Zoned LDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board approval.**

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

It was noted for the record that Mrs. Morin would sit for the following case.

20-107 Promised Land Survey, LLC
Owner: Andrew R. & Sarah L. Glines

The applicant is requesting a variance to the terms of Article III, Section 165-9 of the Town of Derry Zoning Ordinance to allow a 3 lot subdivision with 2 of the lots having frontage on the Class VI portion of Mill Road at 103 Island Pond Road PID 06043-001, Zoned LMDR

Timothy Peloquin, Promised Land Survey, LLC, said he was here tonight representing Andrew & Sarah Glines who are also present this evening. Mr. Peloquin reviewed the criteria and plan submitted for the record. He said that this section of Mill Road had been abandoned in 1965 by the Town. He said that there are currently has 2 residences on this section and the proposed 2 lot subdivision will meet all area requirement and will have viable access with waiver releases filed with the deed. Mr. Peloquin said that he had a meeting with Mr. Mackey and discussed the existing right-of-way and it was decided that the proposal would require a variance as it was not on a Town approved street. He said that the request is for a variance for 2 lots on a Class VI road and they will establish a viable roadway for emergency vehicles and a waiver of liability will be recorded and will be subject to Planning Board approval.

Board Questions

Mr. Perkins asked if the agreement with neighbors would be for maintenance of roadway. Mr. Peloquin said yes that there would be an agreement recorded with the 2 existing lots and the proposed lots for plowing and maintaining the roadway.

Mrs. Evans asked if there were other driveways off this section of Mill Road. Mr. Peloquin said yes that there were 2 driveways. He said that the first one is the Glines that have an address of 103 Island Pond Road but access their home off Mill Road and the other was Covillo who also accesses off Mill Road.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to allow a 3 lot subdivision with two of the lots having frontage on a Class VI road. The existing home on the property has frontage on Island Pond Road and has its access through a driveway located off the Class VI portion of Mill Road.
- The proposal is to have 2 new building lots created on the Class VI portion of Mill Road which has the status of a public way but is no longer maintained by the Town. As such, it does not meet the Town's definition of an approved street. Frontage on an approved street is a requirement per Article III, Section 165-9 of the Town of Derry Zoning Ordinance.

- Currently, Mill Road has the status of an approved street from Stark Road to Gervaise Drive and becomes a Class VI from this point out to Island Pond Road.
- If approved, Planning Board subdivision approval will be required and per N.H. RSA 674:41, prior to issuance of building permits, a notice of municipal liability and responsibility would be required to be recorded with the deeds. Town Council approval may also be required.
- There are pictures of the property in the file for review by the Board.

Mr. Peloquin said that he has done similar things in other Towns and feel that the owners have the right to upgrade to a Class V road but they are seeking to keep the cost down.

Mr. Perkins asked if the proposed homes would need to have a cistern or sprinkler system installed. Mr. Mackey said they would be required to have either a cistern or sprinkler system installed per code requirements. He said that typically builders opt for sprinkler systems due to fees associated during construction.

Mrs. Evans asked if a condition should be made subject to Town Council approval. Mr. Mackey said he was unsure if need to make as a condition at this time.

Favor

No one spoke in favor of the request.

Opposed

Douglas Prittie, 101 Island Pond Road, said that the existing condition of that portion of Mill Road did not have access for fire trucks. He said that he also had a concern with utilities if they would be overhead or underground. Mr. Prittie said that he also has a natural spring that runs through the property and into 93 Island Pond Road and did not wish to have altered to flood his property.

Mr. Perkins said utilities would be considered at the Planning Board level. Mr. Prittie said he was concerned as if they were overhead, he was concerned for power outages in the area from falling branches.

Vito Foderaro, 7 Kelley Drive, said he has resided in the area for 30 years before Stark Road was paved and now that its paved, they have cars speed by all the time. He said that Mill Road is a cut through for the area and if paved will increase speed of cars and change the residential character of the neighborhood. Mr. Foderaro said that if approved he would like to see it kept dirt so as to slow down traffic.

Mr. Perkins said that the applicant will still require Planning Board approval and that the proposed concern was not subject to the Board's purview.

John King, 95 Island Pond Road, asked if they would be creating the road all the way to Gervaise or just create a hammerhead for emergency vehicle turn around.

Mr. Perkins said that he felt that they would be creating a hammerhead as would probably seeking to keep cost down.

Mr. Perkins asked if Class V was Town maintained. Mr. Mackey said that a Class V roadway is Town maintained and would be a substantial cost to bring this section of Mill Road to Town standards. He said that the intent was to upgrade to the second lot and they would need to provide a turn around for emergency vehicle access as addressed in the Land Control Regulations.

Lynn Caloggero, 97 Island Pond Road, said that she would like to see that any construction not divert the natural spring to flood their yard.

Mr. Vito asked if the proposed lots would be well or on a water system as they had to get rid of their wells due to the arsenic in the water.

Rebuttal

Mr. Peloquin said that he would like to address the concerns of the abutters as follows:

- Utilities would be underground as would make more sense than installing poles.
- Fire access would be reviewed under the Planning Board process and they are aware of the conditions of grade, width and clearances required.
- Water spring will be required to map out wetlands and that not allowed to fill and not intention to cause any water courses to change.
- Mill Road traffic not intention to continue roadway to Gervaise but stop at the lot and create a hammerhead turn around for emergency vehicle access.
- Idea is to keep as scenic and gravel base and viable access to the lots.

Mr. Perkins said that he felt that addressed the abutters concerns and asked if a waiver for above ground utilities would be required. Mr. Peloquin said yes and that the traffic flow concerns would be up to the Planning Board to review.

Mr. Peloquin said that Andrew Glines has worked for Promised Land Survey for 10 years and he was seeking to bring in a reputable builder and do a professional job on 2 homes that will increase property values to the surrounding area.

Mrs. Evans motioned to go into deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Deliberative Session

Mr. Kelley said that he felt that the criteria was addressed.

Mrs. Morin said that the applicant plans on living there as well so feel will keep the area as scenic as possible to keep traffic down.

Mrs. Evans said she felt that if the area was kept gravel it would keep traffic from going too fast.

Mr. Corbett said he didn't love the proposal and could see the potential for the area to be utilized as a cut through. He said that the applicant is seeking to have 2 house lots and live there also so feel that would want to keep the traffic area slower. Mr. Corbett said that he did not see where it would be in contrary to the public interest portion of the criteria.

Mr. Perkins said that it was the intention to keep in mind of building development as if requesting 3-4 lots would be excessive and feel that it is not the size of the lot but point is not an established lot. He said he did not see as an excessive use to the area.

Mr. Kelley said that he agreed with Mr. Corbett but unable to stop progress and feel that have done a good job to make less impactful to the area.

Mr. Perkins reviewed the conditions for the record and noted that Town Council will be considered by Code Enforcement and would be covered under Town permits and inspections.

Mrs. Evans motioned to come out of deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Mr. Kelley motioned on case #20-107 Promised Land Survey, LLC Owner: Andrew R. & Sarah L. Glines to Grant a variance to the terms of Article III, Section 165-9 of the Town of Derry Zoning Ordinance to allow a 3 lot subdivision with 2 of the lots having frontage on the Class VI portion of Mill Road at 103 Island Pond Road PID 06043-001, Zoned LMDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to new waiver of municipal liability to be recorded with the Rockingham County Registry of Deeds.**
- 3. Subject to Planning Board approval.**
- 4. Subject to Town Council if applicable.**

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

Other Business

Mr. Perkins said that there was a save the date for the annual Spring Planning & Zoning Conference scheduled for Saturday May 30, 2020.

Mr. Mackey said that is the weekend after Memorial Day and that registration was not open yet.

Mr. Perkins said that registration opens in April and if planning on attending that he suggests to register early as they tend to fill up fast.

Mr. Mackey said that the office has received 3 cases for the next meeting. He said that he has a lot of inquiries for variances so if they all happen to file it could render a busy season.

Correspondence

Mr. Perkins said that there is a copy of the New Hampshire Town and City available if anyone wished to review.

Approval of Minutes

Mrs. Evans motioned to approve the minutes of January 2, 2020 as amended.

Seconded by Mr. Kelley.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Adjourn

Mr. Kelley motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins

Adjourn at 9:18 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of Minutes February 20, 2020

Mr. Kelley motioned to approve the minutes of February 6, 2020 as amended.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Kelley, Mrs. Evans, Mr. Perkins.